

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**DALE ARNOLD,**  
**Plaintiff**

**v.**

**TRACY SMITH, et al.,**  
**Defendants**

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**No. 1:19-cv-750**

**(Judge Kane)**

**ORDER**

**AND NOW**, on this 22nd day of January 2020, in accordance with the Memorandum accompanying this Order, **IT IS ORDERED THAT:**

1. Plaintiff's motion for reconsideration (Doc. No. 37) is **DENIED**;
2. Plaintiff's second motion for summary judgment (Doc. No. 39) is **DENIED AS PREMATURE**. This denial is **WITHOUT PREJUDICE** to Plaintiff's right to file a subsequent motion for summary judgment after discovery concludes or at some other appropriate time;
3. Plaintiff's third motion for summary judgment (Doc. No. 47) and brief in support (Doc. No. 48) are **DEEMED** to be his brief in opposition to Defendants' motion to dismiss (Doc. No. 45), and the Clerk of Court is directed to amend the docket in the above-captioned case to reflect this;
4. Defendants' motion to dismiss (Doc. No. 45) is **GRANTED IN PART** and **DENIED IN PART** as follows:
  - a. The motion (Doc. No. 45) is **GRANTED** with respect to Plaintiff's claims against Defendant Wetzel, and the Clerk of Court is directed to terminate Defendant Wetzel from the docket in the above-captioned case;
  - b. The motion (Doc. No. 45) is **DENIED** with respect to Plaintiff's claims against Defendants Smith, McCoy, and Wenerowicz;
5. Plaintiff's motion to appoint counsel (Doc. No. 41) is conditionally **GRANTED**. The Clerk of Court shall forward a copy of this Order to the Chair of the Federal Bar Association's Pro Bono Committee, Michael A. O'Donnell, Esq., O'Donnell Law Offices, 267 Wyoming Ave., Kingston, Pennsylvania, 18704, for the purpose of obtaining counsel for Plaintiff; and

6. All filing obligations and other deadlines are **STAYED** for forty-five (45) days while Attorney O'Donnell attempts to find counsel to represent Plaintiff. Plaintiff is advised that if the Court is unable to find counsel to represent him, he will be required to continue with his case pro se.

s/ Yvette Kane

Yvette Kane, District Judge  
United States District Court  
Middle District of Pennsylvania